

August 13, 2008

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TOWN OF NEW WINDSOR

PLANNING BOARD

AUGUST 13, 2008

MEMBERS PRESENT: JERRY ARGENIO, CHAIRMAN
NEIL SCHLESINGER
HENRY VAN LEEUWEN
HOWARD BROWN
DANIEL GALLAGHER

ALTERNATE: HENRY SCHEIBLE

ALSO PRESENT: MARK EDSALL, P.E.
PLANNING BOARD ENGINEER

MICHAEL BABCOCK
BUILDING INSPECTOR

DOMINIC CORDISCO, ESQ.
PLANNING BOARD ATTORNEY

ABSENT: MYRA MASON
PLANNING BOARD SECRETARY

REGULAR_MEETING

MR. ARGENIO: I'd like to call to order the August 13, 2008 meeting of the New Windsor Planning Board. Please stand for the Pledge of Allegiance.

(Whereupon, the Pledge of Allegiance was recited.)

August 13, 2008

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ANNUAL_MOBILE_HOME_PARK_REVIEWS:

WINDSOR_ENTERPRISES_MOBILE_HOME_PARK

MR. ARGENIO: Mobile home park review for Windsor
Enterprises Mobile Home Park on Caesar's Lane.
Somebody here to represent this? We're going to table
that for a few minutes and see if somebody shows up.

PUBLIC_HEARINGS:

VITO_RIZZI_(05-06)

MR. ARGENIO: We're going to move directly to our regular items first of which is a public hearing, the Vito Rizzi site plan on Windsor Highway. I see Mr. Shaw here to represent this. This application proposes the construction of a 7,800 square foot office retail building on the three plus or minus acre site. The plan was are previously reviewed at the 23 March, 2005, 27 February, 2008 planning board meetings. The application is before this board for a public hearing at this meeting. For those who are not familiar with our month procedures, I see we have quite a few people in the room, the board, the planning board is going to review this application. Mr. Shaw is going to walk us through it and tell us the improvements that he's made and the changes that he's made at our direction and Mr. Edsall's direction then we'll open it up to the public comment and close the public hearing and then we'll review it and then see where this is going to go. Greg, can you tell us about this? Turn it towards us please for the front end of this discussion. We gave you some comments last time, Greg, I have a list of them here, can you tell us what you did to correct them at first while the other board members take a moment to review what we have here?

MR. SHAW: I did not submit revised plans truly, the comment that Mark had had to do with some grading, very small area in the front on Windsor Highway. Subsequent to our last presentation before this board, we did complete the SWPPP.

MR. ARGENIO: That grading is right here, that problem, Greg, is right here? Mark?

MR. EDSALL: No, your pointer was correct.

MR. ARGENIO: Greg, it's right in this area.

MR. SHAW: I told you I didn't revise the plans.

MR. ARGENIO: So you're prepared. Go ahead.

MR. SHAW: But what we have done we completed the Storm Water Pollution Prevention Plan that was submitted to the board and to Mark and that review is complete. I believe you have that in your file. As part of the environmental review process, the letter was sent up to the state for an evaluation as to whether we needed an archeological study for this project. And it came back that they recommended a Phase 1A, Phase 1B study which we retained an archeologist, he prepared the document, it was sent up to the state and a copy was also submitted to this board. So those are probably the two main features that we have accomplished.

MR. ARGENIO: What's the sum and substance of that document?

MR. SHAW: Found nothing.

MR. ARGENIO: Okay.

MR. SHAW: So--

MR. ARGENIO: Did they drive by and take a look see if anything was there or actually dig?

MR. SHAW: Consisted of a document research which was 1A and test holes 50 feet on center which was the 1B.

MR. ARGENIO: So they did dig.

MR. SHAW: They had to do the dig I believe 24 inches in diameter 50 feet on center and again nothing found with the dig. So again that document was sent up to the state. Just giving you a brief overview of the

project, as you said, it's in a 3.0 acre parcel, the first 200 feet is in the C zone, the balance of the property is in the R-4 residential zone. There was a previous plan prepared I believe was in 2007 and an application was made to the Zoning Board of Appeals for a much larger project. At that time it was a I think a 14,500 square foot building with approximately 97 parking spaces. That variance was not granted by the Zoning Board of Appeals.

MR. ARGENIO: Too big a building?

MR. SHAW: And they didn't feel it was warranted so with that we basically downsized the building, went from 14,500 square feet to 7,800 square feet, approximately half of the original layout and instead of 97 spaces we're providing 58 spaces. As you can see with the design of the site plan we have entrance off Windsor Highway, the majority of the parking, and 100 percent of the building is within the residential zone. The only thing that goes into the commercial line is just a lane for refuse for possible unloading of the vehicles and 10 parking spaces. We'll need a permit from the New York State Department of Transportation for the highway entrance, that's pretty standard. The building will be connected to the town sewer system and with the town water system the building will be sprinklered. With respect to the number of spaces we're obligated to provide one space for every 150 square feet of building area, we're required to provide 52 spaces, we're providing 58 spaces, so in compliance with respect to the zoning. There are no tenants for the building right now and again our application is reflecting either office or retail depending on what the market will allow but we have provided in case it is retail for larger vehicles the access the site pull in behind the rear of the building and then pull out onto Windsor Highway driver first to allow them better access onto the state highway. And finally with respect to the project is the storm water detention

plan, as this board is aware, once we disturb over one acre we're obligated by the regulations of New York State to detain storm water flows for storms having return frequencies of 1, 10, 25 and 100 years. We're also obligated to take the storm water, collect it and to treat it so what we have created in the rear of the property is very simply a pond, a pond that will have four outlet pools which will be two permanent small pools of water in the pond and upon rainfall the water will come into the pond from the storm drainage system, we'll be choking back the flow cause again we're not increasing the flow downstream after development than what's flowing off the site today, the water will build up within the pond and when the storm stops, the water will again drain out slowly. Again, this pond has been designed to meet state standards where there's not going to be any increase in storm water flow after development than prior to development. We also have and I'd like to introduce Mario from A.J. Coppola who has the architecture for the building and while he's presenting that I just want to bring up one point. In the design of the pond and in the design of the landscaping in the rear of the building we believe we were sensitive to the residential properties that are along Lannis Avenue and what we have done is that we have heavily landscaped this side of the pond to create a visual buffer so the residents even though they're quite remote from the pond will not be looking at the pond, they'll just be looking at the landscaping. And furthermore, as we move our way to the, I guess it's to the west, there's another buffer area which is between the pond and the parking spaces which again we have heavily buffered that so again so the residences won't be looking at any cars that may be parked in those 10 parking spaces or any vehicles that may be in the rear of the building. And then the final thing we have done with respect to the residences on Lannis Avenue we have prepared an architectural plan to show this board what it's going to look like just to ensure the board that it is not going to be a gray concrete block wall, that

it will have some architectural finish to it cause the residents will be looking at the back of the building the few that are there.

MR. ARGENIO: Show us the--

MR. SHAW: That's your job, Mario.

MR. ARGENIO: Show us the back.

MR. SALPEPPI: Here you have the rear of the building, the length of the building is 130 by 60 feet deep to make 7,800 square feet. We're doing brick face on the front and two sides full height all the way to the soffit, the soffit is 12 feet high, we have lowered that a foot from the previous building, the large building which we had previously. The rear elevation will be vinyl siding. At this point, we have assumed only four tenant spaces in the building, that's subject to change, that's not a fixed number.

MR. ARGENIO: Is all that access in the front or some of that tenant access in the back?

MR. SALPEPPI: Well, there are rear doors, the current size at four units requires rear exit, an emergency exit for retail.

MR. ARGENIO: I asked you how to turn the light on, you're telling me how to build a power plant. Yes or no, is there tenant access in the back?

MR. SALPEPPI: Four doors in the front, four doors in the rear.

MR. ARGENIO: All I'm asking.

MR. SALPEPPI: It could be for deliveries or actually could be like a retail, depends on the tenants' setup.

MR. VAN LEEUWEN: Where is all your, the air conditioning and all that equipment going and garbage, where is that going?

MR. SALPEPPI: Mr. Shaw has a dumpster enclosure at the back.

MR. SHAW: We have a masonry refuse enclosure in this area at the rear of the building again east of access with respect to picking up the refuse and leaving the site so we do have one and it's located in this particular area.

MR. ARGENIO: Where do the other units go?

MR. SHAW: They'll use that one.

MR. ARGENIO: The AC units?

MR. SHAW: We're not at point yet, they're not on the plan.

MR. ARGENIO: Where would you propose to put them?

MR. SHAW: I have to defer to Mario.

MR. SALPEPPI: At this point we'd have probably four condensers unless we determine that we're going to have more spaces but we'd have four condensers between the rear wall of the building and the curb.

MR. ARGENIO: Seems to me they should go on the south side of the buildings.

MR. SALPEPPI: At the far end?

MR. ARGENIO: We're trying to look at for noise pollution for the folks on Lannis Avenue, I think that's where you're going.

MR. VAN LEEUWEN: That's where I'm going.

MR. SALPEPPI: Two of them, okay, two of them could easily go there but the other two would probably be too far from this air handlers so we could accommodate two on one end.

MR. ARGENIO: Neil or Howard, do you have any, we're going to open it up to the public?

MR. SCHLESINGER: Yes, is there anything there a structure on this property?

MR. SHAW: In this particular area you have a house with a barn, this is immediately adjacent to Flag Guys.

MR. SCHLESINGER: If I was walking into Flag Guys it's to the right?

MR. BABCOCK: Yes.

MR. SHAW: If I'm walking it's to the right.

MR. SCHLESINGER: I'm trying to pictures what's there now.

MR. SHAW: There's an existing plan in your drawing that shows what's on the site and I believe it's a drive that comes into the property, a house and the barn.

MR. VAN LEEUWEN: Is that where the beauty salon is now?

MR. SHAW: No, it's just a residence.

MR. ARGENIO: Howard or Dan, do you have any issues?

MR. SCHLESINGER: Just thinking of everything, you know, being situated where it is. What's your source

of heat?

MR. SALPEPPI: There would be indoor furnaces.

MR. SCHLESINGER: Just trying to think of anything that would disturb the area.

MR. SALPEPPI: The condensers.

MR. SCHLESINGER: We don't want a dumpster truck coming at 3 o'clock in the morning going beep, beep, beep, that type of thing.

MR. BROWN: That depends on what type of tenants you're planning on renting to.

MR. ARGENIO: Are you going to put your deli there?

MR. RIZZI: Possibly if I can take it.

MR. VAN LEEUWEN: What I'm concerned about is people on Lannis Avenue and we've had them in here before and I have been on this board for a few years, the noise level, how about putting condensers on each side of the building instead of anywhere in the back?

MR. SALPEPPI: Possible, yes, I mean, yes, we could, I mean, the distance is so far away.

MR. VAN LEEUWEN: Might be a little more piping but I'll tell you one thing, it would reduce the noise for the Lannis Avenue and otherwise we're going to get a crowd from Lannis Avenue, it's unbelievable because we've seen that before.

MR. SHAW: Hank, just for your source of reference from the rear of the building to the middle of the site to the property line is 330 feet so you have a good distance.

MR. ARGENIO: Greg, I agree, it's quite far but this whole corridor and the commercial development on this corridor it's always an issue, we just want to make sure we hit it and we're considerable of the issues. Danny, did you have any thoughts?

MR. GALLAGHER: I do and the southern line, the shed is that the Flag Guys' shed?

MR. SHAW: Yes, that's their shed.

MR. ARGENIO: Mike, can I ask one question relative or Mark relative to the coverage issues? When we talk about building coverage, how does that apply in a situation like this where we have a lot that straddles two zones?

MR. EDSALL: It's one number, just one number.

MR. ARGENIO: Give me the public hearing notice here. If anybody has any other questions, just jump right in. Okay, on the 31st day of July, 7 addressed envelopes went out containing notice of public hearing for this application. At this point in time I'd like to open the public hearing for the Vito Rizzi site plan. If anybody has the desire to comment for or against or has a question on this site plan, please raise your hand and be recognized by the chairman and you'll be afforded the opportunity to speak. Yes, sir in the front row, please give your name and address for the benefit of Franny before you speak and please stand.

MR. RIZZI: I'm Vito Anthony Rizzi, the owner of the property. I'm familiar with these kind of air conditioning units being that I have been in that, I'm in business already and having 300 feet as a buffer plus the trees and everything plus probably another hundred feet to the one or two houses that are nearby no way they're going to be able to hear the noise, I think it's something that's kind of being over-thought

about.

MR. ARGENIO: Thank you.

MR. VAN LEEUWEN: Can I ask what kind of trees these are?

MR. SHAW: Existing wooded area?

MR. VAN LEEUWEN: Yes, no, not the existing wooded area, the new trees you're putting in.

MR. SHAW: I have to take a look and there's quite a few.

MR. ARGENIO: There's also an existing wood line here too.

MR. VAN LEEUWEN: Yes, I know the property.

MR. SHAW: These are PAs and PAs over here, these are pines.

MR. ARGENIO: Norway spruce, 23 of them 6 to 7 feet tall, Henry.

MR. SHAW: And that's to buffer between the pond and parking area.

MR. ARGENIO: That's quite substantial.

MR. VAN LEEUWEN: I agree.

MR. ARGENIO: Anybody else want to make comment? Yes, ma'am?

MS. CAVALLO: My name is Kara Cavallo, I live behind this and my rear, the rear of my lot is adjacent to the rear of this lot and I do have several comments. First of all the 330 feet is from the rear of the building to

the lot line, is that right?

MR. SHAW: Yes.

MS. CAVALLO: How close is the retention pond, the rear of the retention pond to the lot line?

MR. SHAW: From the top of the pond to the property line through let's say the center of the property is about 150 feet.

MS. CAVALLO: So that's a lot, it's a lot closer than--

MR. ARGENIO: What's your last name?

MS. CAVALLO: Cavallo, we bought from Hughes.

MR. ARGENIO: So you're there, good.

MS. CAVALLO: Yes, we're there. Okay, so most of this lot is actually zoned residential, I think it's like 2/3 of this is actually zoned residential?

MR. ARGENIO: A portion of it is.

MS. CAVALLO: So what they're putting in the residential portion is refuse, loading and parking and I think, you know, we, I don't know, you know, I don't know if that's a permitted use in a residential zone or maybe that's why we're here but to me, you know, you have to take into consideration, I have two year old twins, there's a lot of little kids on the street. We have a lot of concerns about safety. I haven't heard anything about is that retention pond fenced, is the parking fenced?

MR. SHAW: Yes.

MR. ARGENIO: Excuse me one second, ma'am, what type of fence, Greg?

MR. SHAW: It's a three foot six inch high wood split rail fence.

MR. ARGENIO: With fabric on it, with black chain link fabric.

MS. CAVALLLO: Three foot high around a retention pond I would think that you need something taller than that to protect, you know, wandering children over from a retention pond and there are lot of kids on the street, young kids who are going to grow up there. So obviously for me having the refuse in the back is a real problem. The parking in the back I thought I heard you're only required 52 spaces yet you have 58, seems like you can cut down some of the parking especially in the rear.

MR. ARGENIO: Excuse me, elaborate on that, Greg, parking.

MR. SHAW: Yeah, we're obligated under the ordinance to provide 52 spaces, we're providing 58.

MR. ARGENIO: So there's 6 over what they are required.

MS. CAVALLLO: Taper it down especially in the back.

MR. ARGENIO: Let me just share a thought with you on parking and I have been sitting here a long time and a lot of these other guys have been sitting here for quite some time as well and what we find the use that Mr. Rizzi can apply to this space is diverse, okay, we have a code that guides what he can put in there. But the different uses have different from a practical point of view different parking demands and we have always found that to a degree you're always better off having a few extra stalls than not enough, that doesn't mean if they're required to have 60 and they propose 300 we're going to okay that, that would be

problematic, but there's always, you're always better off having a few extra stalls than not enough.

MS. CAVALLO: My concern was really having the space in the rear for parking, I don't know how many parking spaces are there but it seems to me if that space is superfluous for parking maybe they could just use it for loading or I don't know, I'm just saying for me living behind there, the refuse and the loading in the back is a problem. Is that parking, is that back area is that also fenced?

MR. SHAW: No, it's not.

MS. CAVALLO: So, you know, so now you're, what you're taking what's currently there's currently one small house on that lot next door is the Flag Guys which is also a small business, next door to that is Marguerita's Hair Salon about the size of a house, a small business, so you're adding quite a lot, you're really changing the character of what's currently there. I know he can do that on his commercial property but you're going into the residential zone and changing what's there as well.

MR. ARGENIO: Let me share a thought with you, I don't know if it's going to answer your question. What he's proposed here is congruent with the law, that means it is a lawful proposal and I take my hat off and I think we as a board take our hat off to the zoning board for disallowing the huge, large, I'm not going to use the term monstrosity but I'll say monstrosity, the board, the huge massive building that was proposed prior to this much smaller and more modest building, so I think the zoning board did their job and government worked well in this fashion. We have wrestled as a board with every one of those lots from the corner of Forge Hill Road all the way down to Willow Lane with the exact same issues, the exact same issues you're sharing with us. So we as a board have tried to do our best to not

restrict the rights of the applicant, Mr. Rizzi, cause he truly does have the right to develop his property in accordance with the zoning laws but we want to be sensitive to you folks as well.

MS. CAVALLO: And I appreciate that, I understand that we're here, that the objectives of this board is to consider the public, health, safety and welfare and the comfort and convenience of the public in general the residents who are adjacent, the landscaping screening and that's what we're talking about here today so I would submit that that should probably also be fenced in considering the safety of the children in the neighborhood.

MR. ARGENIO: What's that?

MS. CAVALLO: That back loading and refuse area.

MR. ARGENIO: Okay.

MS. CAVALLO: Maybe that should also be fenced and I like what I'm hearing about all the trees and landscaping and that type of thing.

MR. ARGENIO: I'm looking at the landscaping here from where I'm sitting and I'll tell you that it's quite substantial, it's quite substantial spruces that he's planting are 6 to 7 feet tall and that's quite a tree.

MS. CAVALLO: As far as the trees, one of my neighbors who couldn't be here tonight asked me to mention that she would suggest more of a variety of species of trees in that if there's a problem with the spruce then there would be some other variety to maintain a buffer. And then I guess if the retention pond is fenced, I think more substantial fence would be appropriate to protect the neighborhood, I think that a fence around the parking structure would certainly be helpful to protect the neighborhood from the large loading vehicles and

the refuse and I guess those are all my comments.

MR. ARGENIO: Thank you, ma'am, thank you very much, your comments were very pertinent and well presented. Anybody else?

MR. BRAUN: You already answered my question.

MR. ARGENIO: Perfect because what I was going to say is on a different subject and you know my routine. Anybody else?

MR. BEDETTI: Frank Bedetti. Not being able to see the drawing there.

MR. ARGENIO: Step up if you want.

MR. BEDETTI: I either I misheard what Mr. Shaw represented, I was trying to pay attention but did you say that the building was a hundred percent in the residential?

MR. EDSALL: He did have it reversed, it's a hundred percent in the commercial.

MR. ARGENIO: I want to hear the question.

MR. BEDETTI: Was the building a hundred percent in the residential or commercial?

MR. SHAW: No, commercial.

MR. BEDETTI: I thought I heard you say residential.

MR. SHAW: I very may well have.

MR. BEDETTI: Cause he scared me.

MR. EDSALL: You had it right.

MR. ARGENIO: Is there anybody else that would like to speak on this?

MS. CAVALLLO: I'm sorry just we haven't heard anything about lighting.

MR. ARGENIO: There's site lighting on the plan if you'd like to come up and look you're certainly welcome to.

MS. CAVALLLO: Thank you.

MR. ARGENIO: Anybody else? I'll accept a motion we close the public hearing.

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that we close the public hearing on the Vito Rizzi site plan.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: Okay, I want to speak just for a minute if you guys would allow me and then if you guys, Greg, the fence has got to be 4 foot tall.

MR. SHAW: That's fine.

MR. ARGENIO: End of discussion.

MR. SHAW: No discussion.

MR. ARGENIO: In the front the light pole that's in the middle of the parking lot should be in the island in my opinion, wouldn't you guys agree with that?

MR. VAN LEEUWEN: Yes.

MR. SHAW: That can be taken care of very easily.

MR. ARGENIO: It's a simple relocation.

MR. SHAW: Absolutely.

MR. VAN LEEUWEN: Your man made a mistake.

MR. SHAW: Those were the comments Mark came up with, we haven't revised the plan, we thought it might be more appropriate to get through the public hearing.

MR. ARGENIO: This is a good use on this lot, it's not a huge building, the aesthetics are in keeping with the neighborhood, I shouldn't say keeping they are improving the neighborhood because based on the elevation--do you have a business sign? I don't see one.

MR. SHAW: Not at this time.

MR. VAN LEEUWEN: Just keep in mind the residents of Lannis Avenue, okay?

MR. SHAW: Oh, we have from day one, the feedback that my client got from the Zoning Board of Appeals when there was a public hearing was loud and clear.

MR. ARGENIO: Glad I wasn't there.

MR. SHAW: I wasn't there either but I can say that we have taken their comments into consideration and therefore that's the results of the heavy landscaping, the architectural treatment and the buffering of the

pond and then of the parking areas.

MR. ARGENIO: It's substantial.

MR. SHAW: We tried to do the best we could, even though they are quite a distance away we put forth the effort.

MR. ARGENIO: Do you guys have anything else here? I mean, it's a pretty--

MR. VAN LEEUWEN: That's all I have to say.

MR. ARGENIO: If anybody sees fit, I'll accept a motion that the Town of New Windsor Planning Board declare themselves lead agency under SEQRA.

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that the the Town of New Windsor Planning Board declare itself lead agency under the SEQRA process.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: Orange County Department of Planning referred back to us and they said local determination. We have fire approval on 2/20 of '08, we have, do we have highway on this?

MR. SHAW: No, it's a state highway.

MR. ARGENIO: You're right, thank you. If anybody sees fit, motion for negative dec.

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board declare a negative dec under the SEQRA process for the Vito Rizzi site plan. Roll call.

ROLL CALL

MR. SCHLESINGER AYE

MR. BROWN AYE

MR. GALLAGHER AYE

MR. VAN LEEUWEN AYE

MR. ARGENIO AYE

MR. ARGENIO: Talk to me, someone, I mean, tell me about it, anybody got anything else? Wait a second, I want to close one issue and I put this to the board members, what about these AC units?

MR. SCHLESINGER: AC units?

MR. VAN LEEUWEN: I thought we cleared that.

MR. SCHLESINGER: They have three options, go on the roof, leave it where they are, two on one side, two on the other side, 300 feet is a lot, that's lot, I mean, unless you got something the matter with an air conditioning unit and you're not going to hear it, I mean, I think that bringing it up is important and we're addressing it but if it's on the side of the building or in the back it's not going to make a difference, my opinion.

MR. BROWN: I agree the side preferably.

MR. GALLAGHER: Sides would be good.

MR. ARGENIO: If you can put them on the side it would be good, we're certainly sensitive to the issue. I think Neil is right that's quite a distance, especially because you have those pines there and I think that they're going to be a good noise buffer, so if you can do that that would be helpful. Now you can say something.

MR. RIZZI: It's just better, the air conditioning will work much more efficiently and in this day and age with the price of everything going sky high trying to keep things efficient is something to look at, we don't want to drive a Cadillac when we can drive a Volkswagon.

MR. ARGENIO: Seems as though if Mrs. Cavallo comes to you at some point in time with an issue however inane you think it may be as a businessman do yourself a favor, address it with her in an equitable fashion because it has to come back here and not gonna be good. Okay?

MR. RIZZI: We're trying the best we can.

MR. ARGENIO: I'm asking you to please try to make every effort you can to address it and be a good neighbor, that's what I'm asking.

MR. RIZZI: I will do that, be a good neighbor.

MR. ARGENIO: Thank you very much. We certainly love having you in New Windsor, your deli was great for many years and it would be good to see it back. Anybody got any other thoughts?

MR. VAN LEEUWEN: Make a motion to approve with the two, the four air conditioners on the side of the building.

MR. BABCOCK: Two on each end?

MR. SHAW: That's what I thought he said.

MR. ARGENIO: What do I do with that?

MR. SCHLESINGER: Four foot fence.

MR. ARGENIO: That's done. You're difficult, you're very difficult, you're very difficult.

MR. VAN LEEUWEN: We made an agreement and I just want to stick to it, that's all, no big deal.

MR. SCHLESINGER: You made the agreement.

MR. VAN LEEUWEN: There's no second to my motion, died for lack of a second.

MR. ARGENIO: You're going to need to do that.

MR. SHAW: The two on the side, that's fine.

MR. SCHLESINGER: How big is the building?

MR. SALPEPPI: It's 130 feet long by 60 feet.

MR. SCHLESINGER: So the side to the farthest point maximum 40 feet, not that big of a deal. Second the motion.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board offer final approval to the Vito Rizzi site plan subject to the four foot fence be installed congruent with the materials that Mr. Shaw had described and that the air conditioning units go on the north and south end of the building. Is there any other subject-tos, guys, anything am I missing? Roll call.

MR. GALLAGHER: Light pole.

MR. ARGENIO: Subject to the light poles.

MR. SHAW: Mark has a few comments, subject to Mark's comments we'll cover them all.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

LEGACY_WOODS_-_KNOX_VILLAGE_SENIOR_PROJECT_(08-01)

MR. ARGENIO: Legacy Woods. The next public hearing is for Legacy Woods. Come on up whoever's representing this and get yourself set up. Okay, next on tonight's agenda is our second and final public hearing for the evening, Legacy Woods-Knox Village. Application proposes development of the 14.21 acre parcel with 183 senior housing multi-family residential units with 8 buildings. The site includes 3,200 square foot clubhouse and other site improvements. The plan was previously reviewed at the 16 January, 2008, 26 March, 2009 and 11 June, 2008, as my predecessor would say, who says we move too fast, planning board meetings. The application is before the board for a public hearing tonight. Sir, can I please have your name and the firm you're with and tell us what you want to tell us here about this plan?

Michele Babcock, Esq. and Mr. Paul Pelusio appeared before the board for this proposal.

MR. PELUSIO: My name is Paul Pelusio with J. Robert Folchetti & Associates. The property is located on 14 acres on the east side of Route 32 approximately half a mile from the intersection of 94 and 300 and the site will be developed with 8 multi-family residential structures consisting of one and two bedroom apartment type units. The site will be served by municipal utilities including water and sewer. My office has developed a comprehensive storm water management plan. Most of the storm water--

MR. ARGENIO: Excuse me for interrupting you, Michele, you guys have to get points from Moodna, is that right on the sewer?

MS. BABCOCK: That's correct.

MR. ARGENIO: I think I may have asked that before.

MR. PELUSIO: The storm water management system that's been designed consists mostly of below grade structures, it's been designed to attenuate up to the hundred year storm event as per DEC standards. Those documents have been submitted to the town engineer and we have been in discussion with his office to finalize that application.

MR. VAN LEEUWEN: Can you speak a little louder so the lady can hear you?

MR. PELUSIO: I apologize.

MR. ARGENIO: You're speaking a little quietly. Go ahead.

MR. VAH LEEUWEN: You don't have to be so quiet.

MR. PELUSIO: Some of the site amenities are the clubhouse that was mentioned, a swimming pool adjacent to the clubhouse, tennis court, there's parking for 415 vehicles, 377 is required by the code, some of the parking will be located below three of the structures.

MR. ARGENIO: Are you counting that parking that's sub?

MR. PELUSIO: Correct.

MR. ARGENIO: Is that okay?

MR. EDSALL: Yes.

MR. ARGENIO: Go ahead.

MR. PELUSIO: There will be site lighting, we have submitted a lighting plan, there will be site landscaping, landscaping plans have been submitted and are under review, there will be a passive recreation area at the east end of the site and that end of the

site will remain predominantly undisturbed. And with that, I would turn it back to the board for any questions or comments that they may have.

MR. ARGENIO: Okay, to my, the fellow members to a great extent this is going to be a listening experience for us tonight, we'll certainly see this a few more times, but we have worked with the owner and Mark Edsall has worked with the owner to try to arrive at a plan that relatively closely represents, relatively closely represents what the final plan is going to look like and we did not want to have the public hearing until we got to that point we feel, Mark feels, the applicant feels that we're at that point.

MR. VAN LEEUWEN: Are these building going to have elevators in them?

MR. PELUSIO: Yes, they will.

MR. ARGENIO: As such, on the 29th day of July, 2008, 46 addressed envelopes went out to the people living within I think the law is 500 feet of this piece of property with a notice of public hearing. And we're here to have that public hearing tonight. Same rules apply, if somebody would like to speak for or against or just comment, please raise your hand, I will recognize you, I expect you to stand, I expect you to come forward and speak and that's my speech. Yes, ma'am?

MS. MC DONALD: Barbara McDonald, I live on Haight Drive which is directly behind or in front of--

MR. ARGENIO: Haight Drive isn't that down near Birchwood and Hudson?

MR. BABCOCK: That's Harth.

MS. MC DONALD: I'm going to be looking at a three

story apartment complex.

MR. ARGENIO: Cornwall or New Windsor?

MS. MC DONALD: New Windsor, I have a few questions that I'd like to and concerns first I'm just distraught that the woods are going to be wiped out. Our property line runs right in the middle of an existing stone wall, I was told when I bought the property--

MR. ARGENIO: Ma'am, would you please and I don't mean to interrupt, would you please point on the map where your lot is approximately?

MS. MC DONALD: Right here.

MR. ARGENIO: Very good.

MS. MC DONALD: And from the first apartment building so that's at the west end, I believe. I have a stone wall, we have a chain link fence that's on top of the stone wall and I was told that I own half that stone wall so I'm concerned that the property, I looked at the map when it was left here for people to review.

MR. ARGENIO: Public review period.

MS. MC DONALD: I didn't notice any mention of the stone wall, like it looks like it's right on my property line.

MR. ARGENIO: You want the stone wall preserved?

MS. MC DONALD: Yes and I was told when we bought our property that there was a green front between our property and that's why everybody else is laughing at me, so I want a buffer between there. That's one of my questions and a big concern. I asked about leaving more space and the person I talked to said oh, it's going to be really tight and I said well, if it's so

tight why are they putting so much in this small space?

MR. ARGENIO: I want to answer that question for you, this is not the resolution to your concern about it being tight, but I do want to answer your question about it being tight so you are informed. We have adopted in the Town of New Windsor recently a senior citizens law that includes affordable housing and ultra affordable housing for the senior citizens. The need has been identified by the Supervisor, the Town Board and a lot of other people in this town that we have seniors here who are becoming of age quote unquote of age 65, 70, pick a number, they can't afford to live here, they can't afford to live. So what's happening in this town is this new senior citizen law is out there crafted by the Town Board, endorsed by this board and it allows for these type of senior citizen facilities which admittedly are a little more dense but what that density does it gives the seniors the ability to have an affordable place to live where they can have people around them, services and things of that nature. That certainly doesn't answer the specific question you asked but I hope it sheds some light on some of your concerns.

MS. MC DONALD: Well, one of my other concerns, what about the sewage and water problem we've had in New Windsor, I mean, I thought there was a moratorium on building because we had the water and sewage problem?

MR. ARGENIO: Mark, share with us on that comment.

MR. EDSALL: We were just discussing the density bonus for the affordable, that's what Dom and I were just discussing, one of the primary reasons--

MR. ARGENIO: Sewer and water.

MR. EDSALL: We were discussing the density bonus, I apologize for not hearing the other comment which makes

it more dense, that's the discussion we were having is sewer and water availability, there's a water line available, they're doing hydraulic testing that will be submitted as part of the follow-up submittals and water is available or sewer rather is available with the purchase of available capacity from the Moodna Group.

MR. ARGENIO: That's the question that I asked the attorney a few moments ago and the water moratorium dictates that no water main extensions may occur but it is lawful to hook to a water main with the appropriate permits and such.

MS. MC DONALD: Well, they just put one in like last year.

MR. EDSALL: The main--

MS. MC DONALD: Then our water pressure just went down to like nothing.

MR. ARGENIO: That's an interesting comment, that's a good comment.

MS. MC DONALD: I saw them, they were checking it out today.

MR. EDSALL: The main that went in is actually a replacement of a former, an existing main that serves the Cornwall Firthcliff Heights, it's basically the Firthcliff Heights District in the Town of Cornwall for roughly 30 to 35 years has gained their water from the Town of New Windsor by an intermunicipal agreement and there are two feeds to that district, one line was just replaced over the last couple years, just activated very recently. So if you saw a change in pressure more than a couple months ago it couldn't have had anything to do with it cause the main wasn't on, it was installed, New York City Department of Environmental Protection would not allow the main to be turned on

because they didn't know about the 35 year old agreement.

MR. ARGENIO: Because of the comment just made, I want to make sure we look closely at pressures in the area and the impact that will have on pressures in the area.

MR. EDSALL: That's something that Folchetti's office is looking at, they'll be looking at fire flows and they need to develop fire flows within this complex and the fire flow requirements within multi-family are much greater than for the single family so they've got a higher burden.

MS. MC DONALD: What about the, like I was saying with the stone wall now is there going to be a buffer between my property line and there's, I saw on the plan a retention wall, retaining wall.

MR. PELUSIO: There are several retaining walls on the property and in that location just looking at the plan identifying your lot there's a sidewalk area that would be running adjacent to the property line with some street trees planted.

MS. MC DONALD: So everything that's behind that stone wall is gone?

MR. PELUSIO: Well, there will be new landscaping planted.

MS. MC DONALD: But I've got trees that are right against the stone wall.

MR. ARGENIO: Ma'am, let me just interrupt you for one second. I want to share a thought with you and you may or may not be happy with it but I just want to share with you the reality of things here. You have to understand something just like Mr. Rizzi was here before people when they buy a piece of property they

have the right to develop it in conformance with the laws of the Town of New Windsor. Now, what me, Dan, Neil, Howard and Henry we can't tell them yes, you can develop it or no, you can't, we don't have, the law doesn't give us the right to do that but what it does do is it gives us the right to say how they can do it, the things they need to do to, as Mrs. Cavallo very wisely stated and I forget how she said it, a peaceful and harmonious community in the Town of New Windsor and we're willing to do that. But when we start talking about the trees that are beyond the stone wall which are their trees it's very difficult for us to say look, no, you can't do that on your property.

MS. MC DONALD: I'm just asking for like--

MR. ARGENIO: Certain cases we can but it's difficult certainly and your message is received.

MS. MC DONALD: That was, that, well, also the lighting because most of the people that are facing that property we, all the houses were built with these, I have floor to ceiling windows facing--

MR. ARGENIO: Lighting pollution is a big concern. Mark, you got that?

MS. MC DONALD: And traffic because the road is right there the road runs, it's like a retaining wall, sidewalk, street, two lane street I believe and so I'm thinking about the lighting and the tennis courts are right there, so they'll be lit up at night, that's another question. And the water we dealt with already so could I, now, this is the real important one to me, I have a heart problem, there's a lot of people in the development that are elderly. When Hannafords was built when they cleared that lot they piled up tree stumps and any garbage that was on that site and they poured something on it because it burned and smoldered, rain, snow, sleet all night every day.

MR. ARGENIO: Were you off that week?

MR. BABCOCK: That would be through the DEC burning permit.

MR. VAN LEEUWEN: They monitor that.

MS. MC DONALD: So I'm really concerned.

MR. ARGENIO: So noxious fumes?

MS. MC DONALD: It was disgusting and it was every night. My husband said that you can burn during the day supposedly if it's a construction site but this was left and I'm talking it must have been something poured on it because there was black stinky smoke. And I'm hoping that that doesn't happen severely. I know the land drains down towards Moodna Creek so that's another concern with the wetlands down there. And then where are the entrances and exits to the development because we don't want our street to be used as a short cut with the back of the--

MR. ARGENIO: I can answer that and I will have the applicant's engineer stop me if I misspeak, it appears that there's an emergency crash gate coming on to your road, I'm telling you that's the case, there's one proposed.

MS. MC DONALD: They're going to put one? I thought you said there's one there.

MR. ARGENIO: I'm sorry I misspoke and the purpose of that is God forbid there should be a car fire or a car crash out here on 94 and--

MR. BABCOCK: 32.

MR. ARGENIO: --somebody has a heart attack inside they

have to get in, well, the fireman and the police have to get in but that's not an active access point for the public.

MS. MC DONALD: Active access points would be?

MR. ARGENIO: 32.

MS. MC DONALD: On 32 so there is none by Knox Village?

MR. PELUSIO: No.

MR. ARGENIO: Correct.

MS. MC DONALD: The plan shows Phase 1, 2 and 3 I saw so how many years is my home and neighborhood going to be--

MR. ARGENIO: Very, very good question on the record, sir.

MS. MC DONALD: When they did Hannafords.

MR. ARGENIO: You're on the record, I'd like an answer to this question.

MR. PELUSIO: There's a construction schedule and storm water retention plan and I believe we have identified an 18 to 24 month schedule of construction.

MR. ARGENIO: There's your answer.

MS. MC DONALD: So two years my home life is going to be hell.

MR. ARGENIO: The developer has every incentive in the world to get these things up and sold, he has no interest in dragging it out.

MS. MC DONALD: But I'm two blocks away from Hannafords

or maybe a good block and those construction vehicles, I mean, the house shakes when they're digging and you're telling me it's going to be underground level parking.

MR. ARGENIO: It's not underground, when I said under, what I meant was under the first floor of the building.

MS. MC DONALD: Just the drainage and all the piping and all that stuff so that's going to go on. Now what about the archeological study and where is the garbage going to be stored? That's the end of my questions.

MR. PELUSIO: There's several refuse container storage areas identified throughout the site and those locations are identified on the plans if you want to take a look at them, there's one in this corner.

MR. ARGENIO: Step up, ma'am.

MR. PELUSIO: There's one in this location, there's another one here, there's a location over here.

MR. ARGENIO: Go to her house, that's not near her house.

MR. PELUSIO: There are none up in that area there and we have a detail of what the enclosure wall is going to look like.

MS. MC DONALD: This is going to be parking and just the street?

MR. PELUSIO: This will be the access road with some parking just for the recreation area, tennis courts.

MS. MC DONALD: I'm hoping, how high is the retaining wall going to be?

MR. PELUSIO: Between 2 and 4 feet as you get closer to

your house it levels off to almost nothing, it's not a very high retaining wall in this area.

MS. MC DONALD: Now, what's the landscaping going to be?

MR. PELUSIO: There will be street trees all the trees planted along this.

MS. MC DONALD: Cause I'm thinking just traffic alone is going to be intrusive.

MR. PELUSIO: Again, that's why the landscaping that's being proposed is located along that perimeter.

MS. MC DONALD: Hannafords had the nice fence put up, I mean, when they first did the construction it looked terrible but they did come through and put up the nice wood fencing with trees.

MR. ARGENIO: Do you like that fence?

MS. MC DONALD: Better than what was there, I mean, it's like at least you don't see the parking lot, it's quieter, it cuts down a lot of the lighting everything and then now the trees have become established and gotten bigger.

MR. ARGENIO: Is there a retaining wall in this area here? Look at the map or is it down here?

MR. PELUSIO: There's retaining walls running along the entrance part of the road here left and right either side of the road and retaining wall runs just about in this area here and as it approaches this area the grade flattens out and the wall lowers in height.

MR. ARGENIO: Listen, that young lady covered a lot of ground and she asked a lot of very intelligent questions. If there's anybody else that would like to

ask a question? I won't take exception to it but on a different subject? Yes?

MR. MC DONALD: John McDonald, Haight Drive, I'm her husband. Is this always going to be senior citizens?

MR. ARGENIO: Yes, hands down always senior citizens.

MR. VAN LEEUWEN: Fifty-five and over.

MR. MC DONALD: Thank you.

MR. BEDETTI: Yes, in the early description when he was talking about a wall, how large a piece of property was this?

MR. PELUSIO: It's 14.21 acres.

MR. BEDETTI: How many units?

MR. PELUSIO: A hundred and eighty-three.

MR. BEDETTI: And how many of them are actually affordable housing as opposed to just age restricted?

MR. BABCOCK: The whole project is age restricted.

MR. BEDETTI: But how many of them are affordable?

MS. BABCOCK: The price of the units hasn't been established at this point.

MR. ARGENIO: That's not what he asked. Technically, from a technical point of view, how many of them are affordable? I think that's what you asked, right?

MR. BEDETTI: Yes.

MR. EDSALL: I can answer, what's going to be mandated there's 9 units per acre permitted, you can go up to 14

units per acre, half of the units of that 9 to 14 have to be affordable so you'll take the total number of units that are the 5 per acre so 2 1/2 per acre will have to be affordable.

MR. BEDETTI: They haven't identified how many.

MR. EDSALL: That's what has to be affordable by law.

MR. ARGENIO: Would be the minimum and if you need the definition of that you should probably go to the law.

MR. EDSALL: There's a clear definition and they haven't identified which ones yet.

MS. MOODY: Maxine Moody, Truex Drive right across from McDonald's. Barbara asked about the fence and we didn't get a clearance on that.

MR. ARGENIO: No you didn't.

MS. MOODY: I'd just like to know because my house borders Haight.

MR. ARGENIO: We don't have a clear answer for you yet, it's one of the bullet points that I have here that we're going to address.

MS. MOODY: And also I was just wondering if and when this work begins is there going to be a specific beginning and ending time for construction?

MR. ARGENIO: Yes, there's a Town Code and I believe unless I'm mistaken, Mike will correct me, the town ordinance allows no construction activity prior to 7 a.m. and no construction activity after 6 p.m.

MS. MOODY: So they can actually work from 7 until 6?

MR. ARGENIO: Correct. It might be 5, ma'am, I think

it is 5, they can work from 7 a.m. to 5 at night, that's the reality.

MS. MOODY: Weekends?

MR. ARGENIO: No Sundays, Saturdays, yes.

MR. BABCOCK: Saturdays are different hours.

MS. MOODY: Was that in your plan to work on Saturday, is that part of your construction plan?

MR. PELUSIO: We did not specify the days of the week that the construction will take place just the duration.

MS. MOODY: I might have another question later.

MR. ARGENIO: Ask it now, why wait, you have a roll going.

MS. MOODY: I know. You knocked me for a loop when you said 7 to 5.

MR. ARGENIO: That's standard construction hours.

MS. MOODY: I'm a senior citizen so I don't work and I'm just thinking about being disturbed, I want to sleep longer, yes, I do, I feel sorry for the other seniors but I'm struggling too.

MR. ARGENIO: And that's the genesis of this law being crafted exactly what you just said, that's why this law's been crafted so folks like you don't have to struggle, it's exactly why this law's been made. Thank you for saying that.

MS. MOODY: So give me a tax break.

MR. ARGENIO: You want too much, ma'am. Did you have a

question?

MRS. JASZKO: Carolyn Jaszko, our property goes from 32 to the end of Haight Drive so we're in here, the end of across in here it drops off and what's going to happen to that?

MR. PELUSIO: There will be retaining structures put in along here to allow the construction of the roadway so this area will be retained and filled.

MR. ARGENIO: There's going to be a wall.

MR. JASZKO: Robert Jaszko, Sr. But our line is going to be dropped down, your wall will be on our line.

MR. ARGENIO: Let me boil this down, your wall, the face of your wall is going to be how close to here, their property line, Mike, do we have a code that dictates that?

MR. BABCOCK: No.

MR. ARGENIO: How close is your wall going to be to her line?

MR. PELUSIO: In that location the wall's probably two to three feet off the property line from the outside.

MR. JASZKO: How high would your wall be?

MR. PELUSIO: In this location between 2 and 3 feet.

MR. JASZKO: Higher than what it is now?

MR. PELUSIO: Yes.

MR. ARGENIO: It will have a fence on it as well.

MR. JASZKO: And a buffer?

MR. ARGENIO: That's something we're going to talk about.

MR. JASZKO: Because we didn't have an opportunity to get a buffer on the other site because it was Cornwall.

MR. ARGENIO: Mark, you got that?

MR. EDSALL: Writing it down.

MRS. JASZKO: The emergency crash gate where will that be located?

MR. PELUSIO: At the end of Haight Drive here.

MR. VAN LEEUWEN: Can I say something to you? You better treat these people right cause she's a screamer, she used to be on the Town Board.

MR. JASZKO: When you say senior citizens, what age are you talking about?

MR. VAN LEEUWEN: Fifty-five and older.

MR. JASZKO: Will there be teenagers?

MR. VAN LEEUWEN: Shouldn't be.

MR. ARGENIO: Hold it, how does the--

MR. CORDISCO: No one under the age of 18.

MR. ARGENIO: Other than visitors.

MR. CORDISCO: Other than visitors of course but no one that resides there under the age of 18.

MR. JASZKO: Okay. Another question, the roadway goes out to 32 from 32 to the Five Corners there's no

sidewalk, there's nowhere for people to walk and our property faces all the way up 32, Hannaford, when Hannaford built the extra lane they took away the side where people could safely walk, there was a shoulder, a paved shoulder, it's gone now, you're right in traffic and people either walk up in traffic facing they have no place to go.

MR. ARGENIO: That's a very difficult thing for us and we have tried very hard, I said I've been sitting on this board for quite some time and we have tried very hard to compel all the vendors and stores and shopping malls in that area to install sidewalks and as you can see if you have driven through there which I know you have we have been fairly successful. But the degree to which we can do that it is limited, so it's something that we're going to take under advisement. We'll speak to Mark and Dominic and see where that can go but I don't know, I think we're on, we may be on shaky ground.

MR. JASZKO: Just a point.

MR. ARGENIO: It's a good point.

MR. JASZKO: Seniors will walk to the stores and how will they get there?

MR. ARGENIO: Bobby, this is the whole idea of our encouraging as planning board and Town Board this type of development to occur in this area.

MR. JASZKO: We live right in through here, what we're doing now if there's an entranceway from this site onto Haight Drive our driveway will be used as a short cut instead of walking down the highway from the end of Haight Drive down to 32 and right to Hannaford or anywhere else. We have traffic now as it is but to add to it just is going to be--

MR. ARGENIO: Pedestrian or vehicle?

MR. JASZKO: Both.

MR. ARGENIO: How could vehicles possibly use your driveway?

MR. JASZKO: There's a driveway sign, you tell me.

MR. ARGENIO: Here's my answer, you guys, you, you two, you and you, I'm not familiar exactly what he's describing but we all should go take a look at it so when we look at the plans we have a good understanding of it.

MR. SCHLESINGER: I agree. Under the present conditions right now you're saying people pull in your street and do what?

MRS. JASZKO: It's Haight Drive ends right here and our driveway goes from there to the end of 32 or to the opening on 32, they drive through until--

MR. SCHLESINGER: From 32?

MRS. JASZKO: From the end of Haight Drive to 32.

MR. SCHLESINGER: On your driveway they're accessing to your driveway from the street out to 32?

MRS. JASZKO: It's not blocked off so they come through, yeah.

MR. ARGENIO: I have to ask this question. What does that have to do with this application in the most remote sense?

MR. JASZKO: Not a thing, what we're saying is that if there's an entranceway.

MR. ARGENIO: It's closed, they can't because there's going to be a wall with a safety fence on it. The answer is no, they can't do that, we're going to see to that. Go ahead.

MR. JASZKO: That's basically it just mainly.

MR. ARGENIO: Very, very good questions. Anybody else have anything?

MS. MC DONALD: When I moved there 33 years ago Knox Village was supposed to be just a safety exit. Well, that has become a speedway and they do go through their property to get out of the Knox Village to go to 32, it cuts out the Five Corner lights and that's where the problem is that was supposed to be closed off. Now we're told that this emergency exhibit it's going to be closed off also, well, Knox Village is wide open.

MR. ARGENIO: Okay, I have a twofold answer to that question. Phase 1, it's a crash gate, if this board says it's a crash gate and it's sealed closed, that's the end of the discussion. I won't debate that anymore, that's a done deal. If somebody cuts the lock off it or removes the lock and ends up open, call the cops, the cops will secure and if it happens a couple three times we'll put a big pile of dirt on there and it's over. We have these around town, they work, that's why it's being proposed. Phase 2 my answer is, Jazzy, I feel bad for you but I can't help you, it is what it is.

MR. JASZKO: I thought you were going to say put a gate up.

MR. ARGENIO: I can't help you. Okay, anybody else?

MS. MC DONALD: I'm still worried about the fencing behind the property.

MR. ARGENIO: Don't worry, I have a bullet. No, I'm not saying there's going to be a fence but what I am saying I have a note about a fence adjacent to the property, the town engineer or the planning board engineer has a note about the fence behind the properties and everybody here heard you mention it and I don't think there's anybody here that's not sympathetic to your request. And it's something we're going to address as this project evolves. So I'm not telling you there's going to be a fence but I'm telling you we all heard you and I don't think anybody thinks it's silly.

MRS. JASZKO: Will we be advised of your next time that comes before the board?

MR. ARGENIO: You will not. If you'd like, you can call Myra at Town Hall, she can give you a schedule of when our meetings are and share with you who's on the agenda. You're certainly welcome to come and listen but it's not a public hearing, this is the public hearing. Anybody else?

MS. MOODY: So there's no more discussion after tonight?

MR. ARGENIO: Correct, if you want to send a letter or something, send a letter.

MR. VAN LEEUWEN: Well, if you come here we'll listen to you.

MR. ARGENIO: No, we will not, it's against the law.

MS. MOODY: So we want to make sure that we get on the agenda like the fence and everything.

MR. ARGENIO: As I said, if something comes up later on you want to drop me a line or send me a letter, do it, don't be afraid, I'm not closing anybody out. I do

have to follow the law unfortunately, that's the reality. Anybody else?

MR. MC DONALD: And your name is?

MR. ARGENIO: Jerry Argenio, Jr.

MS. MC DONALD: Thank you.

MR. ARGENIO: Anybody else?

MR. SCHLESINGER: Motion to close the public hearing.

MR. VAN LEEUWEN: Second it.

MR. ARGENIO: Motion has been made and seconded to close the public hearing on Legacy Woods/Knox Village site plan. I just want a roll call.

ROLL CALL

MR. SCHLESINGER AYE

MR. BROWN AYE

MR. GALLAGHER AYE

MR. VAN LEEUWEN AYE

MR. ARGENIO AYE

MR. ARGENIO: I just want to say that all of you folks who ask questions were very, very respectful and the questions were pretty good questions and pretty good comments and I applaud you for that cause a lot of times it doesn't go that way. If anybody's got anything in their shorts that we really want to get out there by all means throw it out. We're going to see this thing again, Dominic, Mark any procedural things?

MR. CORDISCO: I just want the applicant to understand that although we have closed the public hearing the board has not taken any action on SEQRA so the mandatory timeframes in terms of making a decision on

the site plan application do not kick in.

MR. ARGENIO: Michele and sir, I'm not sure--

MR. PELUSIO: Paul Pelusio.

MR. ARGENIO: Paul and Miss Babcock we're going to take the members and myself are going to take these comments under advisement, I think some of the comments were pretty good comments and I don't think a lot of them I think most of them were not entirely reasonable. One thing I want to advise you on keep one thing in mind on the retaining walls, you get over 4 1/2 feet we will not accept an SMU wall in the Town of New Windsor. You know what that is?

MR. PELUSIO: Yes.

MR. ARGENIO: We will not accept that and keep in mind make sure for the benefit of Mr. Jaszko that your reinforcing system that extends away from the face of the wall you're not impugning his property. Okay, anybody got anything else?

MS. BABCOCK: If I may just for a minute we were hoping that tonight the board would go ahead head and authorize your attorney to prepare a negative declaration for consideration at next month's meeting.

MR. ARGENIO: What's that do for you?

MS. BABCOCK: We at this point need to return to the Town Board for them to consider the special use permit.

MR. ARGENIO: What are you going to tell them, Dominic wrote the document?

MS. BABCOCK: Well, no, I'm just saying it will put us next month if you consider it at the next meeting then the following Town Board meeting we can appear with the

signed negative dec.

MR. ARGENIO: Him writing the piece of paper means nothing, doesn't mean anything, get on the agenda and I don't have a problem with it, it's fine, I don't think anybody here has problem with it, it's fine.

MS. BABCOCK: Okay.

MR. ARGENIO: And I mean that, I hope you know I mean that. Mike, tell her I mean it, please.

MS. BABCOCK: Okay.

MR. ARGENIO: That's his daughter. It's not a problem, he can have it prepared or not but if we can get, we'll get passed it or not and him having written a document or not, Michele, really doesn't mean anything, but get with Myra, we'll get you on the agenda, keep it moving. I want to absorb these things that we talked about tonight and I want everybody to go around there and take a look around because these folks made some real good points, none of it's a deal buster, it's all shaping up and this is what we do. Thank you for coming in, folks, thanks for your commentary.

MR. CORDISCO: Next meeting is September 10.

REGULAR_ITEMS:

BLOOM_&_BLOOM_(07-13)

Daniel Bloom, Esq. appeared before the board for this proposal.

MR. ARGENIO: Next is Bloom & Bloom. This is a pretty simple thing. Danny, why don't you share with everybody what we have here and tell us in seven paragraphs or less please don't drag me through a novel tonight.

MR. BLOOM: I'll try to make it as brief as possible.

MR. ARGENIO: Everybody know where this is over near Upskate?

MR. BLOOM: This board originally permitted us to go to the Zoning Board of Appeals seeking several variances so that we could construct an addition on our existing office. We went to the Zoning Board of Appeals, the variances were granted. Because of an oversight on my part, we did not come back to the board before we applied for the building permit. Building permit issued, the building was constructed and the matter was completed, concluded. When it was discovered that this had developed, what we did was we did an as-built drawing and indicated that we had complied, we had constructed it strictly in accordance with the original plans submitted to this board with the variances which had been granted by the Zoning Board. Basically that's where we are.

MR. ARGENIO: Okay, so at the ZBA level, Mike, was there neighbors hooting and hollering or shooting six shooters in the air or anything of that nature? You were at the meeting, I assume?

MR. BABCOCK: Yes, I was.

MR. BLOOM: If I may address the board, Mr. Argenio, I can state for the record I took notes, there was no one present at the, no one showed up at the public hearing.

MR. ARGENIO: Well, that's good and you're an attorney so we can believe you.

MR. BLOOM: I will make that statement under oath.

MR. ARGENIO: Do you guys understand what's going on here?

MR. SCHLESINGER: Oops.

MR. ARGENIO: Thank goodness it was something as simple it a clerical oops between Mr. Bloom, Counselor Bloom and Mike's office and thank goodness it's a simple walk in the park and there's nothing, no heavy lifting here. I'm going to read from some of these bullets. The handicapped parking space should be shifted such that the appropriate parking signs can be installed. Mr. Bloom, do you agree to do that?

MR. BLOOM: We did that, this is an as-built.

MR. ARGENIO: Did you review the as-built, Mark?

MR. EDSALL: Well--

MR. ARGENIO: You know what, it's irrelevant, I'm going to hit these issues, Mark.

MR. EDSALL: I don't think you need to read them all but the next time you stripe I've got some suggestions in my comments that can make the site even more compliant with the code and layouts. So I don't know that it's necessary at this immediate time, Mr. Chairman, but these four bullets could be accomplished.

MR. ARGENIO: What does that mean even more compliant?

MR. EDSALL: It's an existing parking lot, the striping, the physical constraints of the site you cannot meet the current law so what I'm saying we're maximizing compliance so I'm suggesting to Mr. Bloom that the next time they stripe and the next time they do handicapped striping they shift things around and make it even better but I won't reinvent the wheel, do this the next time you stripe.

MR. ARGENIO: When you stripe the parking lot next you'll call Mike.

MR. BLOOM: Absolutely.

MR. ARGENIO: The existing parking lot has a minor width deficiency. I recommend the parking be striped as 9 x 18 which is quite frankly the standard for most towns, handicapped, I just talked about a detail for handicapped parking should be added to the final plan. Danny, has that be done or can you do that a detail for handicapped parking delineation should be added to the final plan? If that's not been done, would you please do that?

MR. BLOOM: It hasn't been done.

MR. EDSALL: It was on the old plan but it was taken off this one.

MR. BLOOM: Well, I'll add it to it.

MR. EDSALL: It wasn't, it's up in the corner but there's some enhancements that I noted.

MR. ARGENIO: Counselor, the other thing is the boxes, the approval boxes and such they belong on the bottom right-hand corner of the paper, I'm almost embarrassed mentioning it but my esteemed associate, Mr. Edsall,

it's important for him so when he folds the plan.

MR. BLOOM: He can see it.

MR. ARGENIO: Very nit-noid stuff, I'm just not going to get into this. I'll accept a motion we declare lead agency.

MR. SCHLESINGER: So moved.

MR. BROWN: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board declare itself lead agency under SEQRA process. Roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	ABSTAIN
MR. ARGENIO	AYE

MR. ARGENIO: Number 4, public hearing, anybody have any issue?

MR. SCHLESINGER: No.

MR. ARGENIO: Certainly back I don't see the sense. Motion we waive it.

MR. SCHLESINGER: So moved.

MR. GALLAGHER: Second it.

MR. ARGENIO: Motion has been made and seconded we waive the public hearing on this application for Bloom & Bloom. Roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	ABSTAIN
MR. ARGENIO	AYE

MR. ARGENIO: I will accept a motion for negative dec.

MR. GALLAGHER: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been and seconded we declare negative dec under Bloom & Bloom site plan. Roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	ABSTAIN
MR. ARGENIO	AYE

MR. ARGENIO: You're obligated, Mr. Bloom, counselor extraordinaire to submit a bond estimate for the site plan. Mark, you'll review that and help him with that, is that right? Mark?

MR. EDSALL: Yes.

MR. ARGENIO: Do we need to take this over the wire?

MR. EDSALL: I'd say it's ready, obviously, the minor comments.

MR. ARGENIO: Somebody sees fit.

MR. SCHLESINGER: Motion for final approval.

MR. GALLAGHER: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board offer final approval to Bloom & Bloom site plan subject to Mark's bullet comments which are certainly minor in nature and Mr. Bloom has agreed to contact Mike Babcock next time he stripes the parking lot, make that lot a little bit, make some improvements. Roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	ABSTAIN
MR. ARGENIO	AYE

COVINGTON_ESTATES_SUBDIVISION_(08-11)

Michele Babcock, Esq. appeared before the board for this proposal.

MR. ARGENIO: Covington Estates. This application proposes 2 lot subdivision of this parcel which is the subject of a prior conditional multi-family residential final site plan approval. The application was previously reviewed at the 9 July, 2008 planning board meeting. Just to refresh you guys' memory, Mr. Winglovitz was here last time, obviously, he didn't get it done so they sent a bigger gun in here tonight. They are looking for final approval this time and there was some very, very minor issues relative to a fence location and the type of fence, tot lot and such and do you guys remember the number 15 percent under the Attorney General's office? Okay, Danny, you remember that? So everybody remembers. I want to just advise everybody that the first thing they were looking at is the subdivision map and the second thing we'll look at is the site plan with some very minor modifications which they'll tell us if you have anything additional to add. Michele, go ahead.

MS. BABCOCK: With respect to the subdivision application based on your comments last month we have met with Mark, we have confirmed that these two lots meet the zoning requirements. The other condition was that we added two notes on the plan basically that said that both lots are bound to make all improvements that are necessary and to grant cross-easements against, across each lot in order to be able to make those improvements. We have done both of those items and we're here tonight to request that the board waive the public hearing, grant a negative declaration and final approval to this application.

MR. ARGENIO: We have to waive the public hearing for the site plan?

MR. EDSALL: Procedurally, you should.

MR. CORDISCO: Which you have the authority to do that since it's a minor subdivision it's creating less than four lots.

MR. VAN LEEUWEN: Make a motion we waive the public hearing.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that we waive the public hearing for Covington Estates subdivision.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: I want to just, guys, listen to me for a minute on this just one thing, I just want to share with you guys I'm going to propose that we digress from our standard procedure and I never like doing an approval subject to the county, it's not fair, it's unfair to do that, I have always been an advocate of that and we seem to have all agreed on that over the years. But I think it's appropriate to digress from that a bit on this application, I'm going to tell you why because this application had final approval, still has final or had conditional final approval, still has conditional final approval and substantially the same as it was from day one. The only thing that changed is this law that popped up which is what it is, they are making some very minor changes, so I'm going to propose to the members that if this thing does go to the wire

that we do it subject to Orange County Planning because as I said, they had approval prior to the Orange County Planning law being in effect 28 months ago, 36 months ago, Dominic, 48 months?

MR. EDSALL: September '06.

MR. ARGENIO: So 48 months ago, so that why I'm suggesting that we digress from the policy that we, the standard that we have had and they are certainly going to be subject to whatever--having said that, I'll accept a motion that we assume position of lead agency under SEQRA.

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that the planning board declare itself lead agency for the Covington Estates minor subdivision on Temple Hill Road. Roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: I'll accept a motion for negative dec.

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board declare negative dec under the SEQRA process for the Covington Estates

minor subdivision. Roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: I will ask this again to my fellow members, everybody understands what's going on here with this, with the unit count and everything?

MR. GALLAGHER: Yes.

MR. ARGENIO: I'll accept a motion.

MR. VAN LEEUWEN: So moved.

MR. CORDISCO: If I could just clarify here since the county's timeframe to respond has not yet run, it's possible that they may very well come back with an approval, this is a very simple application, I would expect that they would recommend an approval or even a local determination. Either one of those scenarios would be fine and subject to approval would just move forward and as if it never happened.

MR. ARGENIO: Even if they have comments that's fine with me too.

MR. CORDISCO: In that scenario if they do have comments even if it is comments where they're recommending approval but they're also conditioned on their comments, my recommendation would be that the board would have to come back and revisit this.

MR. ARGENIO: I'm okay with that, are you okay with that?

MS. BABCOCK: We are.

MR. ARGENIO: Do we have a motion?

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that we offer the subdivision final approval subject to what Counsel Cordisco just read into the minutes. Roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

COVINGTON_ESTATES_SITE_PLAN_(01-41)

MR. ARGENIO: Now I'm going to Covington Estates site plan.

Michele Babcock, Esq. appeared before the board for this proposal.

MR. ARGENIO: I'm going to go from memory, I'm not going to point to the map, they had a, he said I'm going to repeat myself approval, et cetera, they came back in to cut this thing into two pieces and we had a second bite at the apple and what we looked for, what we asked for quite frankly were a couple of things and the applicant wanted something as well, they wanted a fence along Route 32, a board-on-board fence. What we had suggested was no board-on-board fence, we suggested a split rail fence, if you remember, Danny, you remember with black fabric on it, they have showed that on the plans in conformance with what our request was. They have asked for a tot play lot which was located somewhat close to 300, I don't know that anybody was knotted up over the tot play lot but what we did was we had them pull that tot play lot away from 300 for safety purposes so no children can get tangled up in 300. The other thing that I don't remember if the applicant took it upon himself or what the situation was but they kind of shrunk the size of the memorial there, well, we have that, Mark, stay with me on this please, they have drawn that memorial in conformance with the original plans so it does have the grandeur of what we expect as a town and I believe Mark that we're compelling them to get that memorial the layout of which and the colors of which are going to be reviewed by Gene Marshall, town historian.

MR. EDSALL: That note will be required on the final plan.

MR. ARGENIO: You're okay with that?

MS. BABCOCK: Yes, in our letter on July 28 we did note we would confer with the town historian.

MR. ARGENIO: Did I miss anything?

MR. EDSALL: The three changes and as you indicated this is not the form but they were very cooperative and shifted everything around as the board requested.

MR. ARGENIO: Some of that is redundant for you folks. Do you guys have any questions?

MR. VAN LEEUWEN: I've got a question, couple questions, this Erie Railroad is this being used?

MR. BABCOCK: It's considered an operating railroad but it's not being used.

MR. VAN LEEUWEN: We should have a fence across here.

MR. ARGENIO: There's a fence back there.

MS. BABCOCK: I have a revised the plan, we're proposing a 6 foot board-on-board fence.

MR. VAN LEEUWEN: How about on 300?

MR. ARGENIO: This is a split rail with a black chain link.

MR. VAN LEEUWEN: Okay.

MR. ARGENIO: Anybody else? I'll accept a motion

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded we

offer final approval.

MR. EDSALL: You have already granted approval, the timeframes applied from the prior approval. What we'd like you to do is pass an approval accepting these three changes to the final plans.

MR. ARGENIO: I will accept a motion we accept these three changes to the final plan.

MR. SCHLESINGER: So moved.

MR. VAN LEEUWEN: Second it.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

DISCUSSION

MR. ARGENIO: Anthing else?

MR. SCHLESINGER: I guess on the senior citizens question was raised by the public as to what the timeframe was for the construction and I believe the answer was 18 months, okay, and there was three phases, correct, I don't know what they're going to do in the first phase but I know that they have to have the swimming pool and the clubhouse done before they go on to a different thing.

MR. EDSALL: Well, whatever you set that's not been established yet.

MR. SCHLESINGER: Phase 1, Phase 2 these things aren't selling, we're going to, the economy's bad, we're not going to do phase 3, are they obligated to get that done in 18 months?

MR. VAN LEEUWEN: No.

MR. SCHLESINGER: So what happens?

MR. BABCOCK: Nothing.

MR. SCHLESINGER: So the answer to the question was it's supposed to be done in 18 months but hey, it may take three years.

MR. VAN LEEUWEN: Might take four or five.

MR. ARGENIO: Neil, I'm going to direct Dominic and Mark to brainstorm that issue and I'm going to share this with you. We have limited ability to effectively enforce that type of thing and we have had issues around this town even prior to your presence on this board where different condo complexes have come out and we've had phasing problems where they go bust. Danny?

MR. GALLAGHER: Windsor Crest.

MR. ARGENIO: Dominic and Mark, you guys playing Pacman? What are you doing?

MR. EDSALL: Reading correspondence from the Orange County Department of Planning.

MR. ARGENIO: Don't take it so serious, relax a little bit, you guys, please, think a little bit, please think a little bit and see if you can come up with something that we can do with this to address this concern cause his concern is very valid, very valid.

MR. VAN LEEUWEN: That's going to be a tough one.

MR. ARGENIO: You guys should read this if you get the chance and, take those handouts, read them, not tonight. But a long time ago when you guys came on this board and I think Covington was the applicant, I made a statement and I had no knowledge of the law but the thing that I said was that, you know, just because you weren't here to review the project doesn't mean and Neil I'm sure you'll remember this doesn't mean we have to back up and start from square one with every applicant that's here just because two people on this board or one or three people on this board have not been here since we started reviewing this stuff. And to everybody's credit everybody here, you guys listened and I had no basis in law but it just seemed to me that it was right and everybody followed my advice and my thoughts and they agreed with it. What I just handed out to you is case law that says that that's what you're supposed to do, just cause you're new on a board whatever board it is and an applicant comes in front of you it's not yours to vote no because you have not been on that board from day one. It's yours to bone up on it so you can effectively keep an applicant moving. We owe that to the applicant as a town. That's it.

August 13, 2008

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Motion to adjourn.

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

Respectfully Submitted By:

Frances Roth
Stenographer

